

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

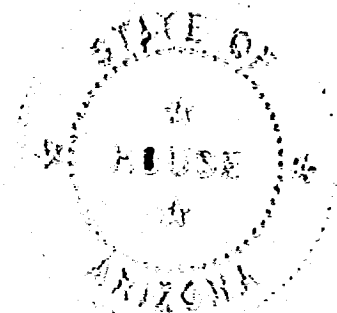
CHAPTER 199

HOUSE BILL 2547

AN ACT

AMENDING SECTION 34-201, ARIZONA REVISED STATUTES; RELATING TO BIDS AND ESTIMATES.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 34-201, Arizona Revised Statutes, is amended to
3 read:

4 34-201. Notice of intention to receive bids and enter contract;
5 procedure; doing work without advertising for bids;
6 county compliance

7 A. Except as provided in subsections B through F and K of this
8 section, every agent shall, upon acceptance and approval of the working
9 drawings and specifications, publish a notice to contractors of intention to
10 receive bids and contract for the proposed work, and stating:

11 1. The nature of the work required, the type, purpose and location of
12 the proposed building, and where the plans, specifications and full
13 information as to the proposed work may be obtained.

14 2. That contractors desiring to submit proposals may obtain copies of
15 full or partial sets of plans and specifications for estimate on request or
16 by appointment. The return of such plans and specifications shall be
17 guaranteed by a deposit of a designated amount which shall be refunded on
18 return of the plans and specifications in good order.

19 3. That every proposal shall be accompanied by a certified check,
20 cashier's check or surety bond for ten per cent of the amount of the bid
21 included in the proposal as a guarantee that the contractor will enter into
22 a contract to perform the proposal in accordance with the plans and
23 specifications. Notwithstanding the provisions of any other statute, the
24 surety bond shall be executed solely by a surety company or companies holding
25 a certificate of authority to transact surety business in this state issued
26 by the director of the department of insurance pursuant to title 20, chapter
27 2, article 1. The surety bond shall not be executed by an individual surety
28 or sureties, even if the requirements of section 7-101 are satisfied. The
29 certified check, cashier's check or surety bond shall be returned to the
30 contractors whose proposals are not accepted, and to the successful
31 contractor upon the execution of a satisfactory bond and contract as provided
32 in this article. The conditions and provisions of the surety bid bond
33 regarding the surety's obligations shall follow the following form:

34 Now, therefore, if the obligee accepts the proposal of the
35 principal and the principal enters into a contract with the
36 obligee in accordance with the terms of the proposal and gives
37 the bonds and certificates of insurance as specified in the
38 standard specifications with good and sufficient surety for the
39 faithful performance of the contract and for the prompt payment
40 of labor and materials furnished in the prosecution of the
41 contract, or in the event of the failure of the principal to
42 enter into the contract and give the bonds and certificates of
43 insurance, if the principal pays to the obligee the difference
44 not to exceed the penalty of the bond between the amount
45 specified in the proposal and such larger amount for which the

1 obligee may in good faith contract with another party to perform
2 the work covered by the proposal then this obligation is void.
3 Otherwise it remains in full force and effect provided, however,
4 that this bond is executed pursuant to the provisions of section
5 34-201, Arizona Revised Statutes, and all liabilities on this
6 bond shall be determined in accordance with the provisions of
7 the section to the extent as if it were copied at length herein.

8 4. That the right is reserved to reject any or all proposals or to
9 withhold the award for any reason the agent determines.

10 B. If the agent believes that any construction, building addition or
11 alteration contemplated at a public institution can be advantageously done
12 by the inmates thereof OF THE PUBLIC INSTITUTION and regularly employed help,
13 the agent may cause the work to be done without advertising for bids.

14 C. Any building, structure, addition or alteration may be constructed
15 either with or without the use of the agent's regularly employed personnel
16 without advertising for bids provided that the total cost of the work,
17 excluding materials and equipment previously acquired by bid, does not
18 exceed:

19 1. In fiscal year 1994-1995, fourteen thousand dollars.

20 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
21 amount provided in paragraph 1 of this subsection adjusted by the annual
22 percentage change in the GDP price deflator as defined in section 41-563,
23 subsection E.

24 D. Notwithstanding the provisions of subsection C of this section, any
25 street, road, bridge, water or sewer work, other than a water or sewer
26 treatment plant or building, may be constructed either with or without the
27 use of the agent's regularly employed personnel without advertising for bids
28 provided that the total cost of the work does not exceed:

29 1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

30 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
31 amount provided in paragraph 1 of this subsection adjusted by the annual
32 percentage change in the GDP price deflator as defined in section 41-563,
33 subsection E.

34 E. Notwithstanding the provisions of this section, an agent may:

35 1. Construct, reconstruct, install or repair a natural gas or electric
36 utility and distribution system, owned or operated by such agent, with
37 regularly employed personnel of the agent without advertising for bids,
38 unless otherwise prohibited by charter or ordinance.

39 2. CONSTRUCT RECREATIONAL PROJECTS, INCLUDING TRAILS, PLAYGROUNDS,
40 BALLPARKS AND OTHER SIMILAR FACILITIES AND EXCLUDING BUILDINGS, STRUCTURES,
41 BUILDING ADDITIONS AND ALTERATIONS TO BUILDINGS, STRUCTURES AND BUILDING
42 ADDITIONS, WITH VOLUNTEER WORKERS OR WORKERS PROVIDED BY A NONPROFIT
43 ORGANIZATION WITHOUT ADVERTISING FOR BIDS FOR LABOR AND MATERIALS PROVIDED
44 THAT THE TOTAL COST OF THE WORK DOES NOT EXCEED:

1 1. IN FISCAL YEAR 2001-2002, ONE HUNDRED FIFTY THOUSAND DOLLARS.

2 2. IN FISCAL YEAR 2002-2003 AND EACH FISCAL YEAR THEREAFTER, THE
3 AMOUNT PROVIDED IN PARAGRAPH 1 OF THIS SUBSECTION ADJUSTED BY THE ANNUAL
4 PERCENTAGE CHANGE IN THE GDP PRICE DEFLATOR AS DEFINED IN SECTION 41-563.

5 F. A contribution by an agent for the financing of public
6 infrastructure made pursuant to a development agreement is exempt from the
7 provisions of this section if such contribution for any single development
8 does not exceed:

9 1. In fiscal year 1994-1995, one hundred thousand dollars.

10 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
11 amount provided in paragraph 1 of this subsection adjusted by the annual
12 percentage change in the GDP price deflator as defined in section
13 41-563, ~~subsection E.~~

14 G. In addition to other state or local requirements relating to the
15 publication of bids, each agent shall provide at least one set of all plans
16 and specifications to any construction news reporting service that files an
17 annual request with the agent. For the purposes of this subsection,
18 "construction news reporting service" means a service that researches,
19 gathers and disseminates news and reports either in print or electronically,
20 on at least a weekly basis for building projects, construction bids, the
21 purchasing of materials, supplies or services and other construction bidding
22 or planned activity to the allied construction industry. The allied
23 construction industry includes both general and specialty contractors,
24 builders, material and service suppliers, architects and engineers, owners,
25 developers and government agencies.

26 H. Any construction by a county under this section shall comply with
27 the uniform accounting system prescribed for counties by the auditor general
28 under section 41-1279.21. Any construction by a city or town under this
29 section shall comply with generally accepted accounting principles.

30 I. Any construction, building addition or alteration project which is
31 financed by monies of this state or its political subdivisions shall not use
32 endangered wood species unless an exemption is granted by the director of the
33 department of administration. The director shall only grant an exemption if
34 the use of endangered wood species is deemed necessary for historical
35 restoration or to repair existing facilities and the use of any substitute
36 material is not practical. Any lease-purchase agreement entered into by this
37 state or its political subdivisions for construction shall specify that no
38 endangered wood species may be used in the construction unless an exemption
39 is granted by the director. As used in this subsection, "endangered wood
40 species" includes those listed in appendix I of the convention on
41 international trade in endangered species of wild flora and fauna.

42 J. All bonds given by a contractor and surety pursuant to the
43 provisions of this article, regardless of their actual form, will be deemed
44 by law to be the form required and set forth in this article and no other.

1 K. Any building, structure, addition or alteration may be constructed
2 without complying with this article if the construction, including
3 construction of buildings or structures on public or private property, is
4 required as a condition of development of private property and is authorized
5 by section 9-463.01 or 11-806.01. For the purposes of this subsection,
6 building does not include police, fire, school, library, or other public
7 buildings.

8 L. Notwithstanding section 34-221, any agent may enter into a
9 guaranteed energy cost savings contract with a qualified provider, as those
10 terms are defined in section 15-213.01, for the purchase of energy cost
11 savings measures without complying with this article and may procure a
12 guaranteed energy cost savings contract through the competitive sealed
13 proposal process prescribed in title 41, chapter 23, article 3 or any similar
14 competitive proposal process adopted by the agent as long as the agent
15 follows any additional requirements set forth in section 15-213.01.

APPROVED BY THE GOVERNOR APRIL 21, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2001.

Passed the House March 13, 2001,

by the following vote: 52 Ayes,

6 Nays, 2 Not Voting

[Signature]
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 16, 2001,

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting

[Signature]
President of the Senate

Norma Lowb
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

17 day of April, 2001.

at 11:00 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 31 day of

April, 2001,

at 12:36 o'clock P M.

[Signature]
Governor of Arizona

H.B. 2547

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

[Signature]
Secretary of State